

RACING AND GAMING COMMISSION[491]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 99D.7 and 99F.4, the Racing and Gaming Commission hereby proposes to amend Chapter 5, “Track and Excursion Boat Licensees’ Responsibilities,” Chapter 8, “Wagering and Simulcasting,” Chapter 10, “Thoroughbred and Quarter Horse Racing,” Chapter 11, “Gambling Games,” and Chapter 12, “Accounting and Cash Control,” Iowa Administrative Code.

Item 1 removes references to the gambler’s treatment fund since this fund no longer exists.

Item 2 clarifies requirements for peace officer presence at a licensed facility.

Item 3 clarifies that month-end reports are no longer required.

Item 4 adds a requirement for an independent network security assessment to be done biennially and submitted to the administrator of the Commission for review.

Item 5 changes the word “shall” to “may” with regard to utilizing trifecta wagering in certain circumstances.

Item 6 requires that a notice be included in the daily program to alert patrons of the additional weight of the safety equipment worn by the jockey.

Item 7 adds microchipping as an option for identification of horses.

Item 8 rescinds and adopts a new subparagraph 10.5(1)“a”(28) to conform to national model rule language regarding a trainer’s responsibility to provide to horse owners notification of license suspension, denial or revocation. The amendment does not change the substance of the requirement.

Item 9 adds a new paragraph 10.6(1)“c” pertaining to the size of the toe grabs on the front shoes of the racing animal.

Item 10 allows a licensed designee of the owner or trainer to make entries.

Item 11 clarifies limitations on coupling entries.

Item 12 reduces the number of betting interests from eight to seven for a horse to be permitted to be scratched from a race without reason or penalty.

Item 13 changes when the scratch time will be determined.

Item 14 amends subparagraph 10.6(18)“k”(1) so that a horse’s last official start was a start in which the horse was eligible to be claimed.

Item 15 rescinds a provision relating to waived claiming rules to conform to industry standards.

Item 16 allows for multistate wide area progressive slot machine systems, subject to agreement between the participating states.

Item 17 removes references to using three copies for a credit slip since three copies are no longer utilized.

Any person may make written suggestions or comments on the proposed amendments on or before December 30, 2014. Written material should be directed to the Racing and Gaming Commission, 1300 Des Moines Street, Suite 100, Des Moines, Iowa 50309. Persons who wish to convey their views orally should contact the Commission office at (515)281-7352.

Also, there will be a public hearing on December 30, 2014, at 9 a.m. in the office of the Racing and Gaming Commission, 1300 Des Moines Street, Suite 100, Des Moines, Iowa. Persons may present their views at the public hearing either orally or in writing.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code chapters 99D and 99F.

The following amendments are proposed.

ITEM 1. Amend subrules 5.2(1) and 5.2(2) as follows:

5.2(1) The annual audit report required by Iowa Code section 99D.20 shall include a schedule detailing the following information: number of performances; attendance; regulatory fee; total mutuel handle and taxes paid to the state, city, and county ~~and gambler's treatment fund~~; unclaimed winnings; purses paid indicating sources; total breakage and disbursements; and the disbursements of 1 percent of exotic wagers on three or more racing animals.

5.2(2) The annual audit report required by Iowa Code section 99F.13 shall include:

a. A schedule detailing a weekly breakdown of adjusted gross revenue; taxes paid to the state, city, county, and county endowment fund, ~~and gambler's treatment fund~~; and regulatory fees.

b. A report on whether material weaknesses in internal accounting control exist.

c. A report on whether the licensee has followed the system of internal accounting control approved by the administrator.

ITEM 2. Amend paragraph **5.4(5)“a”** as follows:

a. *Peace officer.* Each licensee shall ensure that a person who is a certified peace officer is present ~~during all gaming hours, unless permission is otherwise granted by the administrator as outlined in the facility's security plan approved by the commission.~~ A certified peace officer pursuant to this rule must be employed by a law enforcement agency and have police powers.

ITEM 3. Amend paragraph **5.4(10)“b”** as follows:

b. *Submission of taxes and fees.* All moneys collected for and owed to the commission or state of Iowa under Iowa Code chapter 99F shall be accounted for and itemized on a weekly basis in a format approved by the commission. Each day on the report shall be an accurate representation of the gaming activities. A week shall begin on Monday and end on Sunday. The reporting form must be received in the commission office by noon on Wednesday following the week's end. The moneys owed, according to the reporting form, must be received in the treasurer's office by 11 a.m. on the Thursday following the week's end. ~~Additionally, each licensee shall file a monthly report indicating adjusted gross receipts received from gambling games, total number of admissions, and amount of regulatory fees paid. These reports shall be by calendar month and filed by noon on the first Wednesday following the end of the month unless the end of the month is a Monday or Tuesday, in which case the reports shall be filed by noon on the second Wednesday following the end of the month.~~

ITEM 4. Adopt the following new subrule 5.4(21):

5.4(21) *Network security.*

a. The licensee shall biennially submit the results of an independent network security risk assessment to the administrator for review, subject to the following requirements:

(1) The testing organization must be independent of the licensee and shall be qualified by the administrator.

(2) The network security risk assessment shall be conducted no later than March 31 each year an assessment is required.

(3) In each year an assessment is required, results from the network security risk assessment shall be submitted to the administrator no later than 60 days after the assessment is conducted.

b. At the discretion of the administrator, additional network security risk assessments may be required.

ITEM 5. Amend paragraph **8.2(13)“g”** as follows:

g. ~~Shall~~ May prohibit trifecta wagering on any contest with five or fewer betting interests scheduled to start, or as provided in subparagraph 8.2(13)“g”(1) below:

(1) and (2) No change.

ITEM 6. Amend paragraph **10.4(5)“f”** as follows:

f. *Daily program.* The racing secretary shall publish the official daily program, ensuring the accuracy therein of the following information:

(1) to (5) No change.

(6) The identification of each horse by name, color, sex, age, sire and dam; ~~and~~

(7) A notice that all jockeys will carry approximately three pounds more than the published weight to account for safety equipment (vest and helmet) that is not included in required weighing-out procedures; and

~~(7)~~ (8) Such other information as may be requested by the association or the commission.

ITEM 7. Amend paragraph **10.4(7)“d”** as follows:

d. Supervise the tattooing, microchipping or branding for identification of any horse located on facility premises; and

ITEM 8. Rescind subparagraph **10.5(1)“a”(28)** and adopt the following new subparagraph in lieu thereof:

(28) Notifying horse owners upon the revocation or suspension of their trainer’s license. A trainer whose license has been suspended for more than 30 days, whose license has expired or been revoked, or whose license application has been denied must inform the horse owners that, until the license is restored, the trainer can no longer be involved with the training, care, custody or control of their horses, nor receive any compensation from the owners for the training, care, custody or control of their horses. Upon application by the horse owner, the stewards may approve the transfer of such horse(s) to the care of another licensed trainer, and upon such approved transfer, such horse(s) may be entered to race. Upon transfer of such horse(s), the inactive trainer shall not be involved in any arrangements related to the care, custody or control of the horse(s) and shall not benefit financially or in any other way from the training of the horse(s).

ITEM 9. Adopt the following new paragraph **10.6(1)“c”**:

c. A horse is ineligible to start in a race when:

(1) A thoroughbred has shoes (racing plates) which have toe grabs with a height greater than two millimeters (0.07874 inches), bends, jars, caulks, stickers or any other traction device on the front hooves while racing or training on all racing surfaces.

(2) A quarter horse has front shoes which have toe grabs with a height greater than four millimeters (0.15748 inches), bends, jars, caulks, stickers or any other traction device worn on the front shoes.

ITEM 10. Amend paragraph **10.6(2)“a”** as follows:

a. The facility shall provide forms for making entries and declarations with the racing secretary. Entries and declarations shall be in writing, or by telephone or fax subsequently confirmed in writing by the owner, trainer, or ~~authorized agent~~ licensed designee. When any entrant or nominator claims failure or error in the receipt by a facility of any entry or declaration, the entrant or nominator may be required to submit evidence within a reasonable time of the filing of the entry or the declaration. Individuals who hold a jockey agent license, regardless of other licenses held, shall not be permitted to make entries after a time set by the stewards.

ITEM 11. Rescind paragraph **10.6(2)“c”** and adopt the following new paragraph in lieu thereof:

c. Coupling. There will be no coupled entries in any race. In races that overflow, trainers must declare preference of runners with identical ownership at time of entry. Same owner, second choice horses will be least preferred.

ITEM 12. Amend paragraph **10.6(8)“c”** as follows:

c. *Limitation on scratches.* No horse shall be permitted to be scratched from a race if the horses remaining in the race number fewer than ~~eight~~ seven betting interests, unless the stewards permit a lesser number. When the number of requests to scratch would, if granted, leave a field of fewer than ~~eight~~ seven, the stewards shall determine by lot which entrants may be scratched and permitted to withdraw from the race.

ITEM 13. Amend subparagraph **10.6(8)“d”(2)** as follows:

(2) Other races. Scratch time shall be ~~no later than 10 a.m. of the day of the race~~ set by the stewards prior to the start of the meet.

ITEM 14. Amend paragraph **10.6(18)“k”** as follows:

k. *Waived claiming rule.*

(4) At the time of entry into claiming races, the owner, trainer, or any authorized agent may opt to declare a horse ineligible to be claimed provided:

1- (1) The horse has not been an official starter at any racetrack for a minimum of 120 days since the horse's last race as an official starter (at time of race);

2- (2) The horse's last race as an official starter was a ~~claiming race~~ one in which the horse was eligible to be claimed;

3- (3) The horse is entered for a claiming price equal to or greater than the claiming price at which the horse last started as an official starter;

4- (4) Failure of declaration of ineligibility at time of entry may not be remedied; and

5- (5) Ineligibility to be claimed shall apply only to the horse's first start as an official starter following each such 120-day or longer layoff.

~~(2) Any win which occurs in a claiming race by a horse ineligible to be claimed under waived claiming rules of this, or any other, jurisdiction will be treated as an allowance win for the determination of the horse's eligibility and allowances for every race at the meet, unless the conditions of the race specify otherwise.~~

ITEM 15. Rescind subrule 11.12(8) and adopt the following **new** subrule in lieu thereof:

11.12(8) Wide area progressive systems. A wide area progressive system is a method of linking progressive slot machines or electronic gaming machines by secured data communication as part of a network that connects participating facilities. The purpose of a wide area progressive system is to offer a common progressive jackpot (system jackpot) at all participating locations within Iowa or in multiple states. The operation of a wide area progressive system (multilink) is permitted, subject to the following conditions:

a. The provider of a multilink (provider) shall be an entity licensed as a manufacturer, a distributor, or an operator of gambling games within the state of Iowa or be the qualified parent company of an operator of gambling games within the state of Iowa. No entity shall be licensed for the sole purpose of providing a multilink.

b. Prior to operation of a multilink, the provider shall submit to the administrator for review and approval information sufficient to determine the integrity and security of the multilink. The information must include, but is not limited to, the following:

(1) Central system site location, specifications, and operational procedures.

(2) Encryption and method of secured communication over the multilink and between facilities.

(3) Method and process for obtaining meter data from slot machines on the multilink.

(4) Disbursement options for jackpot payoffs, including information for periodic payments. Periodic payment information, including number of payments and time between payments must be displayed as part of the slot machine pay table or prominently displayed on the face of the slot machine.

(5) Jackpot contribution rates, including information sufficient to determine contributions to the jackpot are consistent across all entities participating in the multilink. Any subsequent changes to the contribution rate of a multilink jackpot must be submitted to the administrator for review and approval.

(6) Jackpot verification procedures.

(7) Jackpot discontinuation procedures, including procedures for distribution of contributions to another jackpot or return of pro rata shares to participating facilities.

c. The provider of the multilink shall, upon request, supply reports and information to the administrator which detail the contributions and economic activity of the system, subject to the following requirements:

(1) Aggregate and detail reports that show both the economic activity of the entire multilink, as well as details of each machine on the multilink.

(2) Upon invoicing a facility, details regarding each machine at the facility and each machine's contribution to the multilink for the period of the invoice shall be supplied, as well as any other details required by the administrator.

d. Concurrent jackpots which occur before the multilink jackpot meters show reset and updated jackpot amounts will be deemed to have occurred simultaneously. Each winner shall receive the full amount shown on the system jackpot meter.

e. The provider must suspend play on the multilink if a communication failure of the system cannot be corrected within 24 consecutive hours.

f. A meter that shows the amount of the system jackpot must be conspicuously displayed at or near the machines to which the jackpot applies. Jackpot meters may show amounts that differ from the actual system jackpot, due to delays in communication between sites and the central system, but meters shall not display an incorrect amount for an awarded jackpot.

g. In calculating adjusted gross receipts, a facility may deduct its pro rata share of the present value of any system jackpots awarded. Such deduction shall be listed on the detailed accounting records supplied by the provider. A facility's pro rata share is based on the amount of coin-in from that facility's machines on the multilink, compared to the total amount of coin-in on the whole system for the time period between awarded jackpots.

h. In the event a facility ceases operations and a progressive jackpot is awarded subsequent to the last day of the final month of operation, the facility may not file an amended wagering tax submission or make a claim for a wagering tax refund based on its contributions to that particular progressive prize pool.

i. The payment of any system jackpot offered on a multilink shall be administered by the provider, and the provider shall have sole liability for payment of any system jackpot the provider administers.

j. The provider shall comply with the following:

(1) A reserve shall be established and maintained by the provider in an amount of not less than the sum of the following amounts:

1. The present value of the aggregate remaining balances owed on all jackpots previously won by patrons on the multilink.

2. The present value of the amount currently reflected on the jackpot meters of the multilink.

3. The present value of one additional reset (start amount) of the multilink.

(2) The reserve shall continue to be maintained until all payments owed to winners of the system jackpots have been made.

(3) For system jackpots disbursed in periodic payments, any qualified investment shall be purchased within 90 days following notice of the win of the system jackpot, and a copy of such qualified investment shall be provided to the administrator within 30 days of purchase. Any qualified investment shall have a surrender value at maturity, excluding any interest paid before the maturity date, equal to or greater than the value of the corresponding periodic jackpot payment and shall have a maturity date prior to the date the periodic jackpot payment is required to be made.

(4) The provider shall not be permitted to sell, trade, or otherwise dispose of any qualified investments prior to their maturity unless approval to do so is first obtained from the administrator.

(5) Upon becoming aware of an event of noncompliance with the terms of the reserve requirement mandated by subparagraph 11.12(8) "j"(1) above, the provider must immediately notify the administrator of such event. An event of noncompliance includes a nonpayment of a jackpot periodic payment or a circumstance which may cause the provider to be unable to fulfill, or which may otherwise impair the provider's ability to satisfy, the provider's jackpot payment obligations.

(6) On a quarterly basis, the provider must deliver to the administrator a calculation of system reserves required under subparagraph 11.12(8) "j"(1) above. The calculation shall come with a certification of financial compliance signed by a duly authorized financial officer of the provider, on a form prescribed by the administrator, validating the calculation.

(7) The reserve required under subparagraph 11.12(8) "j"(1) must be examined by an independent certified public accountant according to procedures approved by the administrator. Two copies of the report must be submitted to the administrator within 90 days after the conclusion of the provider's fiscal year.

k. For system jackpots disbursed in periodic payments, subsequent to the date of the win, a winner may be offered the option to receive, in lieu of periodic payments, a discounted single cash payment in

the form of a “qualified prize option,” as that term is defined in Section 451(h) of the Internal Revenue Code. The provider shall calculate the single cash payment based on the discount rate. Until the new discount rate becomes effective, the discount rate selected by the provider shall be used to calculate the single cash payment for all qualified prizes that occur subsequent to the date of the selected discount rate.

l. Multilinks to be offered in conjunction with jurisdictions in other states within the United States are permitted. Multistate multilinks are subject to the requirements of this subrule; in addition, any multistate plans or controls are subject to administrator review and approval.

ITEM 16. Amend subrule 12.7(3) as follows:

12.7(3) Removal of chips from a gaming table. On receipt of a slip in the cashier’s cage for removal of gaming chips from a table, the following procedures shall apply:

a. A security employee, or other employee authorized by the internal controls, shall transfer all copies of the slip to the gaming table.

b. The dealer or boxperson assigned to the gaming table and the casino supervisor assigned to the gaming table shall prepare the removal and sign all copies of the slip attesting to the accuracy.

c. The security employee, or other employee authorized by internal controls, shall compare the slip to the gaming chips prepared and sign all copies of the slip attesting to the accuracy.

d. ~~When using three copies, one~~ One copy of the slip shall be immediately placed in public view ~~on the container of the gaming table from which the gaming chips were removed. The copy shall not be removed until a slip is returned from the cashier.~~

e. The security employee, or other employee authorized by internal controls, shall transport the chips and the remaining ~~two copies~~ copy of the slip to the cashier’s cage.

f. The cashier shall compare this copy of the slip to the gaming chips received and shall sign ~~both remaining copies~~ the copy attesting to the accuracy. ~~One~~ This copy of the slip shall be maintained and controlled by the cashier.

g. ~~The security employee, or other employee authorized by internal controls, shall transport the slip to the gaming table and shall observe as the dealer or boxperson places both this copy and the copy required by paragraph 12.7(3)“d” into the container of the gaming table.~~